

When Recorded Return To:  
WDG Spanish Fork, LLC  
1178 W. Legacy Crossing Blvd., Suite 100  
Centerville, UT 84014  
Attn: Spencer H. Wright

ENT 105829:2020 PG 1 of 7  
Jeffery Smith  
Utah County Recorder  
2020 Jul 22 03:16 PM FEE 40.00 BY IP  
RECORDED FOR Stewart Title Insurance Agency of Utah  
ELECTRONICALLY RECORDED

768165  
38-512-0001  
38-512-0002

FIRST AMENDMENT TO EASEMENTS WITH COVENANTS  
AND RESTRICTIONS AFFECTING LAND

This First Amendment to Easement with Covenants and Restrictions Affecting Land (this "**Amendment**") is executed as of the 22 day of JULY, 2020, by WDG Spanish Fork, LLC, a Utah limited liability company (the "**Developer**"), Wal-Mart Stores, Inc., a Delaware corporation ("**Wal-Mart**"), and Canyon Gate LLC, a Utah limited liability company ("**Canyon Gate**"). This Amendment will become effective upon recording. Capitalized terms not defined and used herein shall have the meanings set forth in the ECR (as defined below).

A. Developer and Wal-Mart entered into that certain Easements with Covenants and Restrictions Affecting Land recorded in the office of the Utah County Recorder on February 07, 2017 as Entry Number 13238:2017 (the "**ECR**").

B. Wal-Mart is the tenant of the Wal-Mart Tract, pursuant to that certain Ground Lease by and between Wal-Mart, as tenant, and Developer, as landlord, dated as of January 21, 2016, as amended (the "**Ground Lease**")

C. Canyon Gate is a successor owner to Developer of the Developer Tract and the Outparcels.

D. The parties desire to amend the ECR to clarify the rights of the Developer and Wal-Mart in connection with (i) successor owners of the Wal-Mart Tract, and (ii) in the event of the cessation of Wal-Mart's operations on the Wal-Mart Tract, whether through the termination or expiration of the Ground Lease or during any period in which Wal-Mart, its successors or assigns, goes dark.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree and declare as follows:

1. Successor Owners of the Wal-Mart Tract. The rights and obligations of the "Developer", as such term is defined in the ECR, shall pass to the successor fee title owner(s) of the Wal-Mart Tract.

2. Cessation of Wal-Mart Operations. Any rights granted to Wal-Mart under the ECR, including but not limited to any rights granted to Wal-Mart pursuant to Section 14 of the ECR, shall automatically revert to the fee title owner of the Wal-Mart Tract in either the event (i) the Ground Lease is terminated or expires, or (ii) Wal-Mart ceases to operate its business at the Wal-Mart Tract for any reason other than as a result of a Permitted Closure (as defined in the Ground Lease) for more than 90 days.

3. Inconsistencies. To the extent that there are inconsistencies between the terms of this Amendment and the ECR, the terms of this Amendment shall control.

4. Severability. If any clause or provision of this Amendment is held to be illegal, invalid or unenforceable under any law applicable to the terms hereof, then the remainder of this Amendment shall not be affected thereby, and in lieu of each such clause or provision of this Amendment that is illegal, invalid or unenforceable, such clause or provision shall be judicially construed and interpreted to be as similar in substance

and content to such illegal, invalid or unenforceable clause or provision, as the context thereof would reasonably suggest, so as to thereafter be legal, valid and enforceable.

5. Choice of Law. This Amendment shall be construed in accordance with the laws of the State of Utah, without regards to conflicts of laws principles.


6. Counterparts. This Amendment may be executed in multiple counterparts, each of which shall be deemed an original to the same effect as if all parties had executed the same instrument.

*[SIGNATURES ON FOLLOWING PAGE]*

EXECUTED as of date set forth above.

**DEVELOPER:**

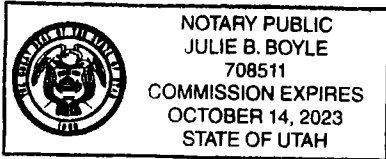
**WDG SPANISH FORK, LLC,**  
a Utah limited liability company

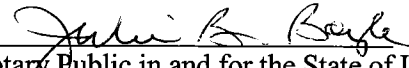
By:   
Name: Spencer H. Wright  
Title: Manager

STATE OF UTAH

COUNTY OF DAVIS

This instrument was acknowledged before me on the 14 day of July, 2020, by Spencer H. Wright, the manager of WDG Spanish Fork, LLC, a Utah limited liability company, on behalf of said limited liability company.



  
Notary Public in and for the State of Utah

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

**Canyon Gate:**

CANYON GATE LLC,  
a Utah limited liability company

By: *[Signature]*  
Name: PAUL JENSEN  
Title: MGR

STATE OF UTAH  
COUNTY OF SALT LAKE

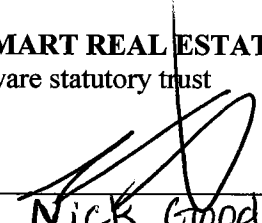
This instrument was acknowledged before me on the 10 day of JULY, 2020, by PAUL M JENSEN, the MANAGER of Canyon Gate LLC, a Utah limited liability company, on behalf of said limited liability company.

*[Signature]*  
Notary Public



**Wal-Mart:**

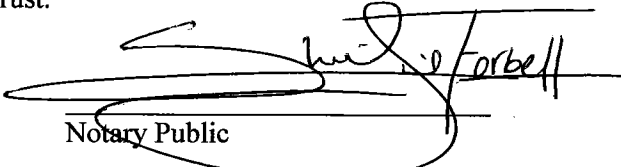
**WAL-MART REAL ESTATE BUSINESS TRUST,**  
a Delaware statutory trust

By:   
Name: Nick Goodner  
Title: Senior Director II

STATE OF Arkansas

COUNTY OF Benton

This instrument was acknowledged before me on the 26<sup>th</sup> day of June, 2020, by Nick Goodner, the Senior Director II of Wal-Mart Real Estate Business Trust, a Delaware statutory trust, on behalf of said trust.

  
Notary Public

**Sheri Fiel-Torbett**  
Washington COUNTY  
NOTARY PUBLIC - ARKANSAS  
My Commission Expires 05/27/2030  
Commission No. 12377216

EXHIBIT A

(Wal-Mart Tract legal description)

Lot 1, EAST BENCH COMMERCIAL SUBDIVISION, according to the plat thereof recorded in the office of the Utah County Recorder on December 6, 2016, as Entry No. 122351:2016

EXHIBIT B

(Developer Tract and Outparcels legal description)

Lot 2, EAST BENCH COMMERCIAL SUBDIVISION, according to the plat thereof recorded in the office of the Utah County Recorder on December 6, 2016, as Entry No. 122351:2016